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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ ARB.P. 130/2017

SKYLINE ENGINEERING CONTRACTS (INDIA)

PVT. LTD

..... Petitioner

Through: Mr Pratham Sharma, Advocate.

versus

ORCHID INFRASTRUCTURE DEVELOPERS

PVT. LTD. & ANR.

..... Respondents

Through: Mr Amit Mahajan, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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19.04.2017

1. The petitioner has filed the present petition under Section 11 of the Arbitration and Conciliation Act, 1996, *inter alia*, praying that an Arbitrator be appointed to adjudicate the disputes that have arisen between the parties in relation to a contract awarded by a letter dated 09.03.2010. Indisputably, the agreement between the parties contains an arbitration clause, which is set out below:-

"1.21 **Settlement of Disputes by Arbitration**

Any dispute arising out of this contract shall be referred to the Managing Director, Orchid Infrastructure Developers Pvt. Ltd. whose decisions shall be final, binding and conclusive."

2. The petitioner invoked the arbitration clause by its letter dated 12.09.2016. However, the parties have been unable to concur on

appointment of an arbitrator. The learned counsel for the petitioner states that there are serious disputes as to the maintainability of the claims sought to be raised by the petitioner and the same are barred by limitation.

3. At this stage, it is not necessary to examine the rival contentions on the maintainability or the merits of the disputes. It will be open for the parties to raise all such contentions as are available in law before the arbitrator.

4. Since the arbitration clause is not in dispute, it is necessary that an Arbitrator be appointed. The petitioner had suggested that Justice Rekha Sharma (Retired), a former Judge of this Court be appointed as the arbitrator. The learned counsel for the respondent has no reservation as to the said appointment. Accordingly, Justice Rekha Sharma (retd.) is appointed as the arbitrator. This is subject to the arbitrator making the necessary disclosure under Section 12(1) of the Act and not being ineligible under Section 12(5) of the Act. The Arbitrator shall fix her fees in consultation with the learned counsel for the parties.

5. The parties are at liberty to approach the arbitrator for eliciting necessary disclosure and for further proceedings.

6. The petition is disposed of.

VIBHU BAKHRU, J

APRIL 19, 2017
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